

Exhibit “3”

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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NEW YORKERS FOR RELIGIOUS LIBERTY, INC.,
GENNARO AGOVINO, CURTIS CUTLER, LIZ
DELGADO, JANINE DEMARTINI, BRENDAN
FOGARTY, SABINA KOLENOVIC, KRISTA O'DEA,
DEAN PAOLILLO, DENNIS PILLET, MATTHEW
RIVERA, LAURA SATIRA, FRANK SCHIMENTI,
JAMES SCHMITT, individually and on behalf of all
other persons similarly situated,

Case No. 1:22-cv-00752

Plaintiffs,

- against -

THE CITY OF NEW YORK; ERIC ADAMS, in his
official capacity as Mayor of the City of New York,
DAVE CHOKSHI, in his official capacity as Health
Commissioner of the City of New York, and ROBERTA
REARDON, in her capacity as New York State
Commissioner of Labor,

Defendants.
----- X

DECLARATION OF KRISTA O'DEA

KRISTA O'DEA declares as follows, pursuant to 28 U.S.C. § 1746:

1. My name is Krista O'Dea and I am a plaintiff in the above-referenced case.
2. I live in Monmouth County, New Jersey, and was employed by the Fire Department of New York ("FDNY") for the past 16 years. I most recently served as a Rescue Medic.
3. I respectfully submit this Declaration in support of Plaintiffs' Motion for a Preliminary Injunction.
4. I know the facts stated herein to be true based upon my personal knowledge, except for


statements which are made on information and belief, and as to those, I verily believe them.

5. On February 20, 2022, the Citywide Appeals Panel denied my appeal of the FDNY's denial of my religious exemption request.
6. A true and correct copy of this denial is attached as Exhibit A.
7. On February 22, 2022, I received another email from the FDNY, stating that within five business days, I could elect to do one of the following:
 - 1) voluntarily resign and separate from City service, waive any right to challenge the resignation, and receive reimbursement for sick leave at a 1:1 rate up to a cap of 100 days, and maintain health benefits through June 30, 2022; OR
 - 2) extend leave with health benefits until June 30, 2022, but agree to voluntarily resign and separate from City service with a waiver of a right to challenge the resignation if not vaccinated by June 30, 2022.
8. A true and correct copy of that email is attached as Exhibit B.
9. On the same day, I also received a document from my union, stating that I could either choose one of the options referenced in paragraph seven, or "[g]et vaccinated while on leave."
10. A true and correct copy of this document is attached as Exhibit C.
11. I did not sign any of the waivers.
12. Upon information and belief, I could be reinstated if I get vaccinated in violation of my sincerely held religious beliefs. I know other people have done so.
13. This decision weighs very heavily on my conscience every moment of my life, and I have experienced both emotional and financial toil as a result.
14. I have also struggled to pay my mortgage and was forced to defer payments on it in order to keep my home.

15. I face enormous pressure daily to choose between my faith and my job.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
March 8, 2022



By: Krista O'Dea

Exhibit “A”

From: noreply@salesforce.com <noreply@salesforce.com> on behalf of NYC Employee Vaccine Appeals <vaxappeal@dcas.nyc.gov>

Sent: Sunday, February 20, 2022 1:59 PM

To: [REDACTED]

Subject: Reasonable Accommodation Appeal Determination

The City of New York Reasonable Accommodation Appeals Panel has carefully reviewed your Agency's determination, all of the documentation submitted to the agency and the additional information you submitted in connection with the appeal. Based on this review, the Appeals Panel has decided to deny your appeal. This determination represents the final decision with respect to your reasonable accommodation request.

The decision classification for your appeal is as follows: Employer undue hardship.

For all employees other than DOE employees: Pursuant to the City of New York's policy concerning the vaccine mandate, you now have **three business days** from the date of this notice to submit proof of vaccination. If you do not do so, you will be placed on a leave without pay (LWOP).

For Department of Education (DOE) employees: Pursuant to New York City Department of Education policy, you have seven calendar days to extend your Leave Without Pay or return to work. If you do neither, you will be subject to termination. For further information and instructions, please see [DOE Denial of Appeal Information](#).

Exhibit “B”

From: EEO VAX RA (FDNY) <EEOVAXRA@fdny.nyc.gov>
Sent: Tuesday, February 22, 2022 5:00 PM
To: [REDACTED] <[REDACTED]>
Subject: Vaccine Mandate Appeal Disposition



FIRE DEPARTMENT
9 MetroTech Center, Brooklyn N.Y. 11201-3857

EQUAL EMPLOYMENT OPPORTUNITY OFFICE

CONFIDENTIAL NOTICE

February 22, 2022

VIA E-MAIL

Re: Appeal Denial of Request for Vaccine Mandate Exemption – Covered Unions
Krista Odea 0610889

The Fire Department has been informed that the New York City Appeals Panel (“Appeals Panel”) has **denied your appeal** for a reasonable accommodation (“RA”) seeking an exemption from the October 20, 2021, Order of the Commissioner of Health and Mental Hygiene, which requires all City employees to be vaccinated against COVID-19 (“vaccine mandate”) as a condition of continued employment.

As a result, you must submit proof of receipt of a first dose of a COVID-19 vaccination within three (3) days of the Appeals Panel decision or you will be placed on leave without pay (“LWOP”) status. If the vaccination is Moderna or Pfizer, you must receive a second dose within 45 days thereafter.

Pursuant to your union’s agreement with the City, **within five (5) business days after receipt of the RA Appeal Denial**, you may elect to:

- 1) voluntarily resign and separate from City service, waive any right to challenge the resignation, and receive reimbursement for sick leave at a 1:1 rate up to a cap of 100 days, and maintain health benefits through June 30, 2022; OR
- 2) extend leave with health benefits until June 30, 2022, but agree to voluntarily resign and separate from City service with a waiver of a right to challenge the resignation if not vaccinated by June 30, 2022.

The forms electing these options are attached. In the event that you wish to elect one of these options, please carefully read the terms within the applicable form, sign it, and return it to EEOVaxRA@fdny.nyc.gov within 5 business days of receipt of the RA Appeal Denial. To the extent that you do not comply with the vaccine mandate, or elect one of the above options, further employment action may be taken against you depending on the rules applicable to your title.

Sincerely,

The FDNY Office of
Equal Employment Opportunity

Resignation - Waiver # 1

I, _____ resign from my employment with the New York City Fire Department, effective as of the date identified below. I understand that my resignation will be deemed an involuntary resignation for non-disciplinary reasons. I understand that this resignation is irrevocable. I understand that by executing this waiver I will be eligible to be reimbursed for unused sick leave on a one-for-one basis, up to 100 days, to be paid following my resignation and my execution of this waiver. I understand that by executing this waiver I will be eligible for health benefits through June 30, 2022, unless I have health insurance available from another source. As a condition of my resignation, I agree not to file any action or proceeding against the City of New York or New York City Fire Department or any and all past or present officials, employees or representatives of the City of New York challenging my resignation and do hereby acknowledge, release and discharge the City of New York and New York City Fire Department from all liability, claims, demands, causes of action, obligations, damages and grievances that arise out of my employment with the City of New York, including, but not limited to, any claim or right related to my resignation.

Employee Signature

Date

Extension of Leave & Deferred Resignation – Waiver # 2

I, _____ am choosing to extend my leave without pay status through June 30, 2022. I understand that I may comply with the vaccine mandate by receiving a first dose of a COVID-19 vaccination at any time up to and including June 30, 2022. In the event that I comply with the vaccine mandate, I must inform the New York City Fire Department of my compliance on or before June 30, 2022, at which time I will be returned to work as soon as is practicable. I understand that by extending my leave without pay status and executing this waiver I will be eligible for health benefits through June 30, 2022, unless I have health insurance available from another source. I understand that in the event that I do not comply with the vaccine mandate by June 30, 2022, I will be deemed to have voluntarily resigned from employment with the New York City Fire Department. As a condition of the extension of leave without pay, I agree not to file any action or proceeding against the City of New York or New York City Fire Department or any and all past or present officials, employees or representatives of the City of New York challenging my resignation and do hereby acknowledge, release and discharge the City of New York and New York City Fire Department from all liability, claims, demands, causes of action, obligations, damages and grievances that arise out of my employment with the City of New York, including, but not limited to, any claim or right related to my resignation.

Employee Signature

Date

Exhibit “C”

I, _____, have read the terms and conditions set forth regarding my vaccination status and leave without pay status. I was notified that I have been placed on leave without pay (LWOP) for non-compliance with the New York City COVID-19 vaccination mandate for municipal workers, effective November 1, 2021. I understand that the Fire Department, City of New York (FDNY), beginning December 1, 2021, will seek to separate all unvaccinated employees who have not filed for a reasonable accommodation exemption and have failed to indicate their intention to extend LWOP or voluntarily separate and resign by the deadlines indicated herein.

I hereby notify the Fire Department, City of New York (FDNY) of my intention to:

- ☐ Voluntarily resign and separate from City service while maintaining health insurance until June 30, 2022, and to be reimbursed for unused sick leave at a 1:1 rate for up to 100 days following separation. I understand that by selecting this option I shall be deemed to have resigned involuntarily, for non-disciplinary reasons, and I waive any rights to challenge this resignation. **Deadline for filing: November 16, 2021.**
- ☐ Elect to extend my leave without pay status for a period no later than June 30, 2022. By doing so, I also agree to voluntarily resign and separate from City service, and waive my right to challenge this resignation, if I am not vaccinated by June 30, 2022. **Deadline for filing: November 30, 2021**
- ☐ Get vaccinated while on leave. I understand that if proof of vaccination is not submitted to the Fire Department, City of New York by **November 30, 2021**, the agency may cease my employment, effective December 1, 2021, unless I elect to voluntarily resign or extend the leave without pay period in accordance with the terms set forth.

Sign and email to FDNYHuman.Resources@fdny.nyc.gov by the deadline indicated in your selection above.

Print Name: _____ Signature _____ Date _____

Employee ID Number (seven digit number on the back of your employee ID card): _____